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SUBJECT: UNITED STATES AND VIETNAM HOLD ANNUAL HUMAN RIGHTS DIALOGUE

REFS: A) Hanoi 0569 B) Hanoi 0580

SUMMARY

¶1. (SBU) This year's Human Rights Dialogue was a candid and constructive exchange, with both sides vowing to move the bilateral relationship forward in the one arena where the USG and GVN continue to have serious differences. The USG delegation, lead by DRL Assistant Secretary David Kramer, urged the GVN to make more concrete progress on rule of law, the release and treatment of persons of concern and freedom of the press and internet issues. The GVN delegation, led by Assistant Foreign Minister Doan Xuan Hung, noted that the Dialogue was well-timed before an expected visit to the U.S. by Prime Minister Nguyen Tan Dung. AFM Hung welcomed the USG's offer of technical assistance for legal reform, agreed to consider certain prisoners eligible for release under amnesty and responded positively to the idea of having foreign media outlets apply for representative offices in Ho Chi Minh City. Certain aspects of the GVN's position on human rights were predictable, including their avowal that "there are no political prisoners, only lawbreakers" in detention and their assertion that all Vietnamese citizens enjoy freedom of speech and freedom of assembly, despite evidence to the contrary. The GVN delegation also took the U.S. to task for its poverty rate, lack of health insurance for its citizens and lack of religious tolerance towards Muslims and other religious minorities. End summary.

A FRANK AND FRIENDLY EXCHANGE

¶2. (SBU) A/S Kramer and AFM Hung both agreed to a frank and friendly exchange at the outset of the one-day May 29 Human Rights Dialogue at the Government Guest House in Hanoi. A/S Kramer emphasized that concrete progress on human rights issues would further improve Vietnam's international image as its global profile grows, and strengthen Vietnam by allowing greater political and civic participation in addition to economic development. AFM Hung affirmed the GVN's desire for an open discussion where neither delegation tried to "impose its views on the other side." AFM Hung said improving the lives of Vietnam's citizens was the GVN's "top priority," noting Vietnam's progress in poverty reduction, achievement of the United Nations' Millennium Development Goals and the "promotion of democracy within the socialist context" evidenced through its grassroots democracy and administrative reform efforts. AFM Hung linked human rights to the widening spectrum of bilateral and multilateral issues Vietnam is now discussing with other nations, along with trade and investment, security and global health issues. Measuring the expansion of U.S.-Vietnam relations in the number of U.S. delegations traveling in Vietnam, AFM Hung said that between 2004 and 2006, the GVN helped coordinate 73 Embassy trips and over one hundred Consulate General trips in more than fifty cities and provinces, including the Northwest, Central Highlands and Mekong Delta regions. AFM Hung also affirmed that Vietnam wants to

build better ties with Vietnamese citizens overseas and make it easier for them to return and contribute to the country's development. Nevertheless, the GVN delegation made a point to criticize certain overseas Vietnamese groups, at one point citing the Viet Tan, which it claimed had "unobjective" and outdated viewpoints and sometimes hostile intentions towards the Hanoi regime.

¶3. (SBU) AFM Hung said these visits had helped improve Vietnam's image in the U.S., and many of his American friends had told him they've seen improvements in areas like religious freedom. AFM Hung said more visits will help counter the views of a few groups in the U.S. who "remain hostile and hold extremist views" towards the GVN and "pose a threat to the further development of our relationship." AFM Hung asked the U.S. not to support groups "conducting activities against the Vietnamese Government" like "the Degar Protestants and Viet Tan." A/S Kramer said while the U.S. stood by the principles of free speech and free assembly, it did not support any group or individual whose aim was the overthrow the GVN. A/S Kramer further clarified that meeting with dissidents did not equal support for their causes. (Note: The MFA protested a scheduled visit by A/S Kramer to meet with dissidents in Hanoi. Though we were formally "discouraged" by the GVN, we faced no obstruction in holding this meeting, reported septel. End note.)

RULE OF LAW AND CRIMINAL CODE REFORM

¶4. (SBU) A/S Kramer kicked off the discussion on Rule of Law by suggesting several concrete steps Vietnam could take to demonstrate its commitment to legal reform, including bringing Vietnam's criminal code in conformity with international standards, supporting

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rule of law reform as outlined by Senator Leahy, and ensuring due process in the court room. A/S Kramer also called for a repeal of "catch-all" national security laws like Article 31, which have been used to deprive dissident defendants of legal representation, and Article 88, which prohibits "propagandizing against the State" and has been used to convict many members of pro-democracy groups such as Bloc 8406, the People's Democratic Party and other activist groups. The Ambassador added it would be useful to have a clearer definition of "propaganda against the state." A/S Kramer said the arrest and conviction of Father Nguyen Van Ly, lawyers Le Thi Cong Nhan and Nguyen Van Dai and others had negatively impacted Vietnam's image in the world and restricted the rights of these individuals to peacefully discuss democratic and political reform.

¶5. (SBU) Ministry of Public Security (MPS) Deputy Director Nguyen Thanh Son responded that the USG "lacked information" about groups like Bloc 8406 and asserted the "so-called peaceful activists" were "discontents" who attempted to incite civil disorder and "provoke the public." Son said Vietnamese society has many channels to express opinions, including a Law on Public Complaints and Denunciations, which are "appropriate to the culture, tradition and customs of Vietnam." But the expressions of groups like Bloc 8406 "did not serve the national interest" because they only looked at "bad things" and did not recognize the GVN's progress or achievements. Son said Bloc 8406's ultimate goal was to establish a political party in opposition to the Communist Party with support from "hostile foreign forces." While A/S Kramer said he was "no expert" on Bloc 8406, he said he had a different understanding of their activities and also noted that, from the U.S. perspective, having more than one political party was "not a bad thing."

¶6. (SBU) On specific legal reforms, Ministry of Justice Deputy Director Le Thanh Long agreed with the need to revise Vietnam's criminal code, noting that the first criminal code was written in 1985 and the version currently in use was the fourth revision from 1999. Long said the GVN was undertaking "a careful study" before conducting further reforms in order to ensure the revised code would be based on "firm foundations." The Ministry of Justice's strategic plan, set to be completed by 2020, aims to reduce penalties for certain crimes, increase fines (e.g., for IPR violations) and get rid of many "economic crimes." Long said they would also reduce the number of crimes subject to the death penalty and revise penalty

levels and crimes for juveniles in accordance with the UN Convention on Rights of the Child.

¶ 17. (SBU) The Ambassador responded that he appreciated the information on specific legal reforms the GVN was currently undertaking and added that the USG stands ready to provide technical assistance for legal reform efforts, including accelerating a long-delayed project to establish a web portal posting all published decisions by the Supreme People's Court, a project that has been underway since 2005. He added that it might be helpful to promulgate information about the various ways Vietnamese citizens could contact their government and lodge complaints, because given the number of land rights protesters that have gathered in Hanoi and Ho Chi Minh City over the past few years, citizens do not seem to be aware of these communications channels and these demonstrations are probably not the "channels" the GVN had in mind. The Ambassador added that even if the means of communication and resolution process is not perfect, "people need to know there is a process" for lodging complaints.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

¶ 18. (SBU) MFA International Organizations (IO) Department Deputy Director Ms. Pham Thi Kim Anh led a GVN discussion on economic, social and cultural rights stating that human rights were comprised of two sets--socioeconomic and political. Because Vietnam is a developing nation, she said, economic and social rights were their top priorities. Reducing Vietnam's poverty rate from 50 to 14% and doubling living standards in the past decade stood out as achievements in this arena. Ms. Anh noted that the number of doctors, nurses and hospitals in Vietnam was ten times higher in 2005 than it was in 1945 (when Vietnam first declared its independence). In contrast, Ms. Anh said poverty was on the rise in the U.S., with the 2007 census showing 36.5 million Americans living below the poverty line and 12 million children suffering from hunger. She noted that 32 percent of Americans have no health insurance. She also urged the USG to comply with its UN obligations by ratifying the International Convention on Economic Social and Cultural Rights.

¶ 19. (SBU) A/S Kramer acknowledged the importance of socioeconomic rights but noted government accountability and transparency go hand-in-hand with these rights. He pointed to the lively debate in the U.S. between presidential candidates on the issue of health

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care. These issues and others were a source of concern for many, and the U.S. Government's responsibility is openly discussed in the media and by the public. The Ambassador added that if the GVN could provide expertise or technical assistance with America's health insurance policy, it would be most welcome. The Ambassador also added that socioeconomic issues were a key point of discussion in the Consultative Group, a group of donor nations (including the United States and the EU) in Hanoi which meets periodically with the GVN to discuss and coordinate sustainable development assistance programs in Vietnam. A/S Kramer said the U.S. had ratified a number of UN conventions, and asked about the possibility of having a senior UN official visit Vietnam. Ms. Anh acknowledged plans to invite the UN High Commissioner for Human Rights this summer and the visit of a Special Rapporteur.

PERSONS OF CONCERN

¶ 10. (SBU) A/S Kramer noted that while the release of several prisoners in the last year is a good sign, other detainees and prisoners give us cause for concern. A/S Kramer voiced USG support for anyone exercising their fundamental rights, but acknowledged that the GVN sees things differently. Citing the serious tension in the bilateral relationship caused by these cases, A/S Kramer encouraged the GVN to take actions consistent with its UN commitments, highlighting that progress would send a positive signal for our relationship and improve Vietnam's international image.

¶ 11. (SBU) Specifically, A/S Kramer requested positive action on a

number of cases, including the release of high-profile prisoners such as Father Nguyen Van Ly and human rights lawyers Le Thi Cong Nhan and Nguyen Van Dai, and two Vietnamese journalists recently arrested in connection with reporting the PMU-18 corruption scandal (Ref. A). In addition, A/S Kramer asked for U.S. access to Bui Kim Thanh (Ref. B), a democracy and labor activist recently recommitted to a mental institution on questionable grounds, in order to conduct the interviews and medical exam necessary to make a determination of eligibility for resettlement in the United States.

¶12. (SBU) A/S Kramer went on to inform the GVN that cyber-dissident Pham Hong Son (currently under house arrest) had been selected for a National Endowment for Democracy (NED) fellowship. Reminding the GVN of the negative fallout surrounding the return, arrest, and release of previous NED fellow Le Quoc Quan last year, Kramer urged the GVN to grant permission for Son to "participate without incident and return without fear," including obtaining a Vietnamese passport.

¶13. (SBU) In response, AFM Hung declared, "there are no political prisoners in Vietnam", a point that A/S Kramer later highlighted by stating that he never used the word "political" when describing prisoners. AFM Hung explained that the GVN does not detain or arrest people because of their opinions, but because they have violated the laws of Vietnam. Regarding the specific cases raised by A/S Kramer, AFM Hung stated that Father Ly, Nguyen Van Dai, and Le Thi Cong Nhan will be seriously considered for amnesty on a humanitarian basis when appropriate. He went on to agree that the GVN could facilitate the procedures for possible resettlement of Bui Kim Thanh after the GVN has fulfilled its responsibility to treat her health problems. For Pham Hong Son, AFM Hung stated that he must serve out his probation period under house arrest but left open the possibility of him being allowed to participate in the fellowship.

¶14. (SBU) AFM Hung then criticized the USG for requesting the release of the two Vietnamese journalists without seeking any information as to the reason why they were detained. He also reminded the U.S. side that four people were detained, two government officials and the two journalists, lamenting that the public and international community are only focused on the journalists. AFM Hung explained that the two journalists were detained and are under investigation because the GVN believes they violated the law by providing false information to and "provoking" the public and releasing state secrets, not because they reported on corruption. He added that they "abused their positions." A/S Kramer noted the importance of having a full investigation of the allegations under a system of due process. He also raised the possibility that the reporters used the best information they had and did not intend to report false information, observing that these arrests may scare reporters away from reporting on sensitive issues like corruption.

¶15. (SBU) MPS Deputy Director Son added that amnesty requests must be based on Vietnamese law, including an assessment of the prisoner's attitude toward rehabilitation. After serving "two-thirds of their sentence" (Note. We read the law as one-third of the sentence. End note.) and with the proper attitude, a

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prisoner's case goes to the Committee for Amnesty and Reduction in Penalty for consideration. Regarding Le Thi Cong Nhan, Son raised the possibility of her resettlement to the United States, should the GVN grant her amnesty and release her from prison. A/S Kramer noted that while the U.S. has no indication from Le Thi Cong Nhan that she is seeking resettlement in the U.S., her case could be reviewed if such a request was made.

¶16. (SBU) Son also noted that the GVN does not want to amnesty prisoners on the basis of U.S. requests alone as it creates the impression of special treatment. He complained that the U.S. does not give sufficient public recognition of GVN humanitarian efforts to grant amnesty to persons of concern. A/S Kramer responded that the U.S. publicly recognizes GVN efforts in the annual Country Reports on Human Rights, as well as in regular consultations with Congress and others. The Ambassador added that we struggle with

what level of public credit we should give for GVN actions, as we try to respect GVN sensitivities while sharing our appreciation when appropriate.

RELIGIOUS FREEDOM AND TOLERANCE

¶117. (SBU) A/S Kramer commended Vietnam for the real progress made on religious freedom in Vietnam, commenting that greater religious freedom promotes social stability and improves Vietnam's international image. Religious groups in Vietnam widely report that freedom to exercise their faith has increased and incidents of abuse and harassment have decreased. In the interest of promoting further progress, A/S Kramer raised several areas where more work remains to be done:

- Increased pace of church registrations in the Northwest highlands, where some 1000 applications are still pending;
- Greater education of the Vietnamese public and training for local officials about the GVN's legal framework on religion;
- Improved response by the GVN to isolated incidents of abuses by officials; and
- More attention to resolution of property claims raised by religious groups, possibly through the creation of a commission to address land issues.

¶118. (SBU) Clearly pleased with U.S. recognition of Vietnam's progress on religious freedom and noting the recent growth in religious practice in Vietnam, AFM Hung acknowledged that the GVN must improve and expand training and education at local levels. The Government Committee on Religious Affairs representative added that they will accept the offer of a U.S.-based NGO, the Institute for Global Engagement, to assist with training in the near future.

¶119. (SBU) AFM Hung explained the complexity of land claims in Vietnam, noting that, given Vietnam's history and recent rapid development, the GVN must take many competing interests into account to resolve these issues in a satisfactory manner. While the central government has a lead role, provincial and local authorities must also be consulted.

¶120. (SBU) Turning to the issue of religious tolerance, Ms. Pham Thi Kim Anh, MFA IO Deputy Director, pointed out that religious tolerance must go hand in hand with religious freedom. Referencing acts of discrimination against Muslims, including publishing of the "Danish cartoons," and passage of U.S. House of Representatives Resolution 847, "recognizing the importance of Christmas and the Christian faith," Ms. Anh urged the U.S. to pursue greater respect for cultural diversity and religious differences. A/S Kramer agreed that more can always be done to improve tolerance, respect and understanding, highlighting President Bush's visit to a Washington, D.C. mosque shortly after the events of September 11, 2001, to demonstrate U.S. Government recognition that a vast majority of Muslims do not support violence and terrorism.

FREEDOM OF THE PRESS AND THE INTERNET

¶121. (SBU) Stressing the importance of a free press, including protection of journalists and their sources, A/S Kramer noted the GVN could significantly improve freedom of the press and the internet by removing restrictions on internet use, providing access to currently censored websites, repealing the requirement for Internet cafe owners to register the personal information of computer users, releasing the two journalists who reported on the PMU-18 scandal, allowing foreign media offices to open up in Ho Chi Minh City, and passing the draft Law on Associations.

¶122. (SBU) Mr. Le Nghiem, Director of the Department of Foreign Affairs Information in the Ministry of Information and Communication, highlighted recent developments in Vietnam, including

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a significant increase in the number of news websites available in Vietnam. He noted that western news sources (VOA, BBC, CNN, and Bloomberg) are now readily available in both English and Vietnamese,

and the press increasingly contains differing viewpoints on government policies. Nghiem went on to note that Vietnam now has 20 million people with access to the internet or 24 percent of total population, and over one million bloggers online with no censorship from state.

¶23. (SBU) While agreeing that internet access is important and often beneficial, Nghiem voiced concerns about the reliability of information on the Internet as well as "dangerous content" being harmful to the younger generation. A/S Kramer explained that two things are illegal on the Internet in the United States - child pornography and, in some states, gambling. He emphasized the individual's right to choose what to view online, and encouraged the GVN to take a similar, hands-off approach.

¶24. (SBU) Regarding the ability of foreign press organizations to open offices in Vietnam, Mr. Dang Xuan Dung, Deputy Director, Department of Information and the Press, Ministry of Foreign Affairs, stated that the GVN works hard to facilitate press activities in Vietnam. To date, Bloomberg is the only press organization to request an office in HCMC and the request was granted; others have not asked to open up HCMC offices, according to Dung. He emphasized that international reporters are allowed to work in HCMC and agreed to facilitate future requests to grant permits for foreign journalists to work in HCMC and southern provinces, as well as any future requests from foreign press agencies to open and operate representative offices.

CONCLUDING REMARKS

¶25. (SBU) A/S Kramer noted that there is no reason why U.S.-Vietnam cooperation on human rights should not be as robust as our bilateral cooperation on other issues, such as HIV/AIDS, security, and the economy.

¶26. (SBU) The Ambassador summed up the concrete results of the dialogue, noting the GVN's agreement to seriously consider requests on prisoners, the Ministry of Justice's agreement to work with the U.S. on rule of law projects, the MFA's agreement to facilitate the opening of foreign press offices in Ho Chi Minh City, and the commitment of both sides to promote religious freedom and tolerance.

ALOISI